
OLR Bill Analysis

sHB 5593

AN ACT CONCERNING DOMESTIC VIOLENCE AND SEXUAL ASSAULT.

SUMMARY:

This bill makes numerous changes to the various laws that govern family violence, domestic violence, sexual assault, dating violence, and bullying, including those related to restraining, protective, and standing criminal protective orders.

Among the changes it makes to the civil restraining order provisions, it (a) expands the courts' authority by allowing additional orders in specific circumstances, including orders to maintain necessary utilities and provide financial support; (b) establishes other requirements for civil restraining orders such as prohibiting modification and establishing expiration dates; and (c) establishes a task force to study service of restraining orders pertaining to family and household members.

The bill also increases the penalty for criminal violation of restraining orders, protective orders, and standing criminal protective orders by changing these crimes from class D felonies to class C felonies when the violation involves such behavior as threatening, harassing, and assaulting a person.

The bill requires local and regional boards of education, as well as the State Department of Education (SDE), to address teen dating violence in schools in the same way that current law requires them to address bullying.

The bill authorizes courts to issue civil protection orders to victims of sexual abuse, sexual assault, and stalking who, among other things, do not qualify for civil restraining orders; it expands the crime of 1st degree criminal trespass and the circumstances under which a court

may issue a standing criminal protective order; and makes related changes.

The bill imposes a mandatory minimum penalty for sexual assault in spousal or cohabiting relationships; requires the Chief Court Administrator to allow family violence victim advocates to serve domestic violence victims in Superior Court; and makes it a crime to maliciously reveal the confidential location of an emergency shelter.

This bill subjects a standing criminal protective order violator to an increased penalty for persistent offenders if, in addition to violating the order, he or she has a prior conviction for certain crimes. It also adds criminal violation of a standing criminal protective order to the list of prior convictions that can subject someone to this increased persistent offender penalty.

EFFECTIVE DATE: October 1, 2014, except the section on (1) the restraining orders task force which is effective upon passage and (2) persistent offenders of certain crimes which is applicable to convictions entered on or after October 1, 2014.

§ 1 — RESTRAINING ORDERS – FAMILY AND HOUSEHOLD MEMBERS

The bill broadens the courts' authority in civil restraining order cases, both upon receipt of an application for such an order and at a hearing on the application.

By law, any family or household member (see BACKGROUND) who has been subjected to continuous threat of present physical pain or physical injury, stalking, or a pattern of threatening, may apply to the Superior Court for a restraining order. The court may issue an order as it deems appropriate to protect the applicant and any dependent children or other people as the court sees fit.

Under current law, the court's order, whether ex parte (i.e. without a hearing) or after a hearing, may include temporary child custody or visitation rights and provisions to protect any animals. The court's order may also prohibit the respondent from:

1. imposing any restraint on the applicant;
2. threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the applicant; or
3. entering the family home or the home of the applicant.

Ex Parte Order

By law, if an applicant alleges he or she is in immediate and present physical danger, the court may issue a restraining order ex parte (i.e., without a hearing) that contains any of the orders described above.

Under the bill, upon receiving the application, if (1) the applicant and respondent are spouses or people who (a) have a dependent child or children in common and (b) live together; (2) no order exists; and (3) it is necessary to maintain the safety and basic needs of the applicant and the children, the bill broadens the measures the order can contain. The court order may also:

1. prohibit the respondent from taking any action that could result in shutting off necessary utility services or other necessary services related to the family home or the applicant's home;
2. prohibit the respondent from taking any action that could result in the cancellation or change of health, automobile, or homeowners insurance policy coverage or beneficiary designation to the detriment of the applicant or any dependent children they have in common;
3. prohibit the respondent from transferring, encumbering, concealing, or disposing of specified property the applicant owns or leases; or
4. require the respondent to temporarily provide the applicant an automobile, checkbook, health documents, automobile or homeowners insurance, a document needed for proving identity, a key, or other necessary specified personal effects.

Hearing on the Application

Under the bill, at the hearing on the application, if the court grants relief under similar circumstances as described under the ex parte provisions, in addition to orders authorized under current law and those authorized in an ex parte order under the bill, the court may also order the respondent to:

1. make rent or mortgage payments on the family home or the home of the applicant and their dependent children;
2. maintain utility services or other necessary services related to the family home or the home of the applicant and their dependent children;
3. maintain all existing health, automobile, or homeowners insurance coverage without change in coverage or beneficiary designation; or
4. provide financial support for the benefit of any dependent children, if the respondent has a legal duty to support them and the ability to pay.

The bill prohibits the court from entering any financial support order without sufficient evidence of a person's ability to pay, including financial affidavits. And, it allows any amounts not paid or collected under an order to be preserved and collected in a divorce, custody, paternity, or support action.

Under the bill, an order can only be entered at the hearing. An order that is entered at a hearing cannot be modified and must expire 120 days after the issue date or upon issuance of a superseding order, whichever occurs first.

Specific Language in the Court Order

By law, any civil restraining order that the court makes must include specific language on what violation of the order constitutes 1st degree criminal trespass and the corresponding penalties.

The bill expands the notice requirements in the court order. The

court order must now also include specific language on what constitutes a criminal violation of a civil restraining order and the corresponding penalties.

§ 2 — TASK FORCE

The bill establishes a task force to study service of restraining orders pertaining to family and household members. The study must examine the:

1. policies, procedures and regulations relating to state marshals serving restraining orders, including methods used for their initial notification;
2. length of time available to serve a restraining order;
3. permissible methods of service;
4. effectiveness of the respondent profile information sheet, and marshal access to databases containing identifiable respondent information;
5. reimbursement rates for service, including an assessment of other states' reimbursement rates;
6. best practices established by other states, if any, with respect to service of restraining orders; and
7. feasibility of expanding the list of people who can serve restraining orders.

Task Force Members and Appointments

Under the bill, the 16-member task force includes two members appointed by each of the following:

1. Senate president pro tempore (representing the Connecticut Coalition Against Domestic Violence and the Chief States Attorney);
2. Senate majority leader (an advocate for domestic violence

- victims and a representative of the State Marshal Commission);
3. Senate minority leader (representing the Connecticut Police Chiefs Association and the Office of the Chief Public Defender);
 4. House speaker (a domestic violence victim and a representative from the speaker's task force on domestic violence);
 5. House majority leader (a state marshal and a representative of the state police);
 6. House minority leader (a state marshal and a representative of state legal aid assistance programs);
 7. Governor (representing the Connecticut Police Chiefs Association and the Office of the Victim Advocate); and
 8. Chief Court Administrator (a Superior Court judge assigned to hear civil matters and a Judicial Branch employee whose duties concern Superior Court operations).

All appointments must be made within 30 days after the bill's passage and any vacancies must be filled by the appointing authority.

The House speaker and Senate president pro tempore must select the task force's chairpersons from among its members. The chairpersons must schedule and hold the first meeting within 60 days after the bill's passage. The Judiciary Committee's administrative staff serves as the task force's administrative staff.

Reporting Requirement and Termination

The task force must report its findings and recommendations to the Judiciary Committee by December 15, 2014. It terminates when it submits the report or on that date, whichever is later.

§§ 3-9 — INCREASED PENALTY FOR VIOLATING CERTAIN ORDERS

§§ 3-6 — Increased Penalty

Under current law, criminal violation of a (1) protective order, (2)

standing criminal protective order, or (3) civil restraining order is each a class D felony punishable by imprisonment for up to five years, a fine of up to \$5,000, or both.

Under the bill, if the violation of any of these orders involves (1) imposing any restraint upon the person or his or her liberty in violation of the order, or (2) threatening, harassing, assaulting, molesting, sexually assaulting or attacking a person in violation of the order, such a crime becomes a class C felony and the penalty increases to imprisonment for up to 10 years, a fine of up to \$10,000, or both.

The bill requires the specific language contained in standing criminal protective orders and certain protective orders to be updated to reflect the penalty increase. The affected protective orders are those related to (1) family violence; (2) stalking, harassment, sexual assault, and risk of injury; and (3) witness harassment.

§ 9 — STANDING CRIMINAL PROTECTIVE ORDERS

As of October 1, 2010, the law renamed standing criminal restraining orders as standing criminal protective orders. The bill ensures that anywhere the term standing criminal protective order is used in the statutes, it includes standing criminal restraining orders issued before October 1, 2010. Thus, the bill ensures that standing criminal restraining orders issued before October 1, 2010 remain enforceable and are subject to the same penalties and statutory provisions as standing criminal protective orders.

§ 10 — PROTOCOL FOR TRANSFER OR SURRENDER OF PISTOLS AND REVOLVERS

The bill makes conforming changes.

§ 11 — CRIMINAL HISTORY RECORDS – FAMILY VIOLENCE CRIMES

The bill makes conforming changes.

§ 12 — 1ST DEGREE HARASSMENT

Under the bill, someone who commits 1st degree harassment is deemed to have committed the crime where the harassing

communication originated or where it was received. Current law only deems the crime to have been committed in either place when the conduct involves telephone calls, although someone can commit 1st degree harassment through a telephone, telegraph, mail, computer network, or other form of communication.

A similar provision already applies to 2nd degree harassment.

By law, 1st degree harassment is a class D felony.

§ 13 — SAFE SCHOOL CLIMATE DEFINITIONS AND PLAN

Definitions

The bill expands school climate laws, which currently address bullying, to include “teen dating violence.” The bill defines this as any act of physical, emotional, or sexual abuse, including stalking, harassing, and threatening, that occurs between two students who are currently in or who have recently been in a dating relationship. (It appears that this provision would apply to cases where one of the students attends college or middle school.)

By law, one form of bullying occurs when a student’s physical act or gesture toward another creates a hostile environment that is sufficiently severe or pervasive to alter school climate conditions. The bill expands the term “hostile environment” to include a situation in which teen dating violence among students is sufficiently severe or pervasive to alter school climate conditions.

Safe School Climate Plan Provisions

The bill requires safe school climate plans to address teen dating violence in schools. Current law requires local and regional boards of education to create these plans to address bullying.

It also requires safe school climate plans to address teen dating violence in several ways:

1. enable students to anonymously report to school employees acts of teen dating violence;

2. require students and their parents or guardians to be annually notified about the process for students to make such reports;
3. enable students' parents and guardians to file written reports about suspected teen dating violence;
4. require school employees who witness or receive reports of teen dating violence to (a) orally notify the safe school climate specialist or, if unavailable, another school administrator within one day and (b) file a written report within two days of the oral report;
5. require the safe school climate specialist to (a) investigate or supervise the investigation of all teen dating violence reports and (b) ensure that the investigation is promptly completed after receiving written notice of the violence;
6. require the safe school climate specialist to review any anonymous reports without taking disciplinary action;
7. include a prevention and intervention strategy for school employees to deal with teen dating violence;
8. provide model teen dating violence prohibitions districts must include in student conduct codes;
9. require each school to notify parents or guardians of students who commit verified acts of teen dating violence within 48 hours of completing an investigation;
10. require each school to invite parents or guardians of both the offending and victimized students to a meeting communicating the school's actions to (a) ensure the safety of the victimized student and (b) prevent further acts of teen dating violence;
11. direct the development of case-by-case basis interventions, which may include both counseling and discipline, for addressing (a) repeated teen dating violence incidents against a single individual or (b) recurrently perpetrated teen dating

violence incidents by the same individual;

12. prohibit discrimination and retaliation against anyone who reports or helps investigate teen dating violence;
13. direct the development of safety support plans for students against whom teen dating violence was directed, addressing safety measures the school will take to protect against further acts;
14. require the school's principal, or principal's designee, to notify law enforcement officials when teen dating violence constitutes criminal conduct; and
15. prohibit teen dating violence (a) on school grounds and various school-related events and locations and (b) off school grounds when it creates a hostile environment at school, infringes on a student's rights, or substantially disrupts the educational process.

The bill also requires the above parental notification and invitations for school meetings to include (1) a description of the school employee's response to the related teen dating violence incident and (2) any consequences that may result from future dating violence acts.

Current law requires boards of education to approve their own safe school climate plans with the above provisions related to bullying by January 1, 2012. The bill requires boards to approve new plans with the new teen dating violence provisions by January 1, 2016 and submit them to SDE. The bill also requires boards to post their plans on the website of the board and each school in the district within 30 days of approval. The plan must also appear in the district's student conduct code and in all student handbooks.

§ 14 — SCHOOL CLIMATE PLAN PREVENTION AND INTERVENTION STRATEGY

The bill adds several optional components that may be added to the prevention and intervention strategy that each safe school climate plan

must have. It permits the strategy to include:

1. implementation of a positive behavioral intervention and support process or another evidence-based model approach for preventing teen dating violence;
2. school rules prohibiting teen dating violence and appropriate consequences for those who engage in such acts;
3. adequate adult supervision of outdoor areas, hallways, the lunchroom, and other areas where teen dating violence is likely to occur;
4. inclusion of grade-appropriate teen dating violence education and prevention curricula in kindergarten through high school;
5. individual interventions with parents, school employees, and (a) students who commit teen dating violence and (b) students against whom acts of teen dating violence are directed; and
6. promotion of parental involvement in teen dating violence prevention through individual or team participation in meetings, training, and individual interventions.

Current law allows the prevention and intervention strategy in safe school climate plans to include the above components to address bullying.

§ 15 — ANALYSIS OF SCHOOL DISTRICTS' PREVENTION EFFORTS

The bill requires SDE to analyze, within available appropriations, school districts' teen dating violence prevention efforts, by:

1. documenting districts' articulated needs for technical assistance and training related to teen dating violence;
2. collecting information on the prevention and intervention strategies school use to reduce teen dating violence incidents; and

3. disseminating, in collaboration with the Connecticut Association of Schools, grade-appropriate school climate assessments to all public schools to monitor teen dating violence prevention efforts over time and compare each district's progress to state trends.

Current law requires SDE to perform such duties, within available appropriations, to analyze districts' bullying prevention efforts.

Also, the bill requires SDE to include in its annual report to the General Assembly on bullying prevention (1) the number of verified acts of teen dating violence in the state, (2) an analysis of school districts' responsive action to teen dating violence, and (3) any recommendations SDE may have about additional activities or funding to prevent teen dating violence in schools.

§ 16 — STATEWIDE RESOURCE NETWORK

Current law requires SDE to establish, within available appropriations, a statewide safe school climate resource network for the identification, prevention, and education of school bullying in Connecticut. The bill adds teen dating violence to the network's mission.

It also requires SDE to consult with the Connecticut Coalition Against Domestic Violence when establishing the network. The law currently requires SDE to consult with the State Education Resource Center, the Governor's Prevention Partnership, and the Commission on Children.

§ 17 — TRAINING FOR SCHOOL EMPLOYEES

The bill requires SDE to provide teen dating violence prevention, identification, and response training to any school employee who does not hold educator certification. Current law requires similar training for bullying (see BACKGROUND).

The bill allows this training to include:

1. developmentally appropriate strategies (a) to prevent teen dating violence among students both in and outside of school

and (b) for immediate and effective interventions to stop teen dating violence;

2. information on the interaction and relationship between students committing acts of teen dating violence, students against whom such acts are directed, and witnesses of such acts; and
3. research findings on teen dating violence, such as information about types of students shown to be at-risk for teen dating violence in schools.

§ 18 — SAFE SCHOOL CLIMATE LEADERSHIP DUTIES

The bill adds duties regarding teen dating violence to individuals and groups with safe school climate leadership roles: district safe school climate coordinators, safe school climate specialists, and safe school climate committees (see BACKGROUND).

It requires district safe school climate coordinators to:

1. collaborate with safe school climate specialists, the district's board of education, and the superintendent to prevent, identify, and respond to teen dating violence in district schools;
2. provide data and information regarding teen dating violence to SDE, in collaboration with the superintendent; and
3. meet with the safe school climate specialists at least twice each school year to discuss teen dating violence issues in the district.

The bill requires safe school climate specialists to:

1. investigate or supervise investigations of reported acts of teen dating violence in the school, according to the district's safe school climate plan;
2. collect and maintain records of teen dating violence reports and investigations; and

3. act as the primary school officials responsible for preventing, identifying, and responding to reports of teen dating violence in the school.

The bill also requires the safe school climate committee to address issues relating to teen dating violence in the school. More specifically, it requires the committee to:

1. receive copies of completed reports following investigations of teen dating violence;
2. identify and address patterns of teen dating violence among students in the school;
3. implement school security and safety plan provisions (see BACKGROUND) regarding the collection, evaluation, and reporting of information relating to instances of disturbing or threatening behavior that may not meet the definition of teen dating violence;
4. review and amend school policies relating to teen dating violence;
5. educate students, school employees, and students' parents and guardians on teen dating violence issues;
6. collaborate with the district safe school climate coordinator to collect teen dating violence data; and
7. perform any other duties the principal determines are related to the prevention, identification, and response to teen dating violence for the school.

The bill prohibits parents serving on the safe school climate committee from participating in the first three duties listed above, as well as in any other activity that may compromise student confidentiality.

Current law requires these individuals and committees to perform the above duties to address bullying.

§ 19 — GRANTING IMMUNITY

The bill grants civil immunity to the following individuals and groups:

1. school employees reporting, investigating, and responding to teen dating violence, who were acting in good faith or within the scope of employment;
2. students, parents, or guardians reporting acts of teen dating violence to a school employee and acting in good faith; and
3. local or regional boards of education reporting, investigating, and responding to teen dating violence and acting in good faith.

The bill prohibits these individuals and groups from enjoying immunity when their acts or omissions constitute gross misconduct.

Current law provides parallel immunity provisions with regard to bullying.

§ 20 — REQUIRED PUBLIC SCHOOL CURRICULUM

The bill adds teen dating violence awareness and prevention to the required health and safety curriculum in public schools.

§§ 21-26 — CIVIL PROTECTION ORDERS

§§ 21 — *Sexual Abuse, Sexual Assault, or Stalking Victims*

The bill allows the Superior Court to issue civil protection orders to an applicant who (1) is a victim of sexual abuse, sexual assault or 1st, 2nd, or 3rd degree stalking, (2) has not obtained any other court order of protection arising out of the abuse, assault or stalking; and (3) does not qualify for relief under a civil restraining order, which is limited to family and household members.

Application. The bill requires an application for a civil protection order to be accompanied by an affidavit made under oath and including a statement of the specific facts that form the basis for relief.

Ex Parte Order. Under the bill, the court may issue an ex parte

order granting appropriate relief, if it finds that there are reasonable grounds to believe that the applicant is in imminent danger.

The bill requires the court clerk to provide two copies of any ex parte orders to the applicant.

Hearing. The court must schedule a hearing within 14 days after receiving an application meeting the above requirements. If the court is closed on the scheduled hearing date, the hearing must be held on the next day the court is open and any ex parte order that was issued must remain in effect until the hearing date.

Service of Process. Under the bill, at least five days before the hearing, the applicant must have a notice of the hearing, a copy of the application, affidavit, and any ex parte order served on the respondent by a proper officer, such as a state marshal. The bill requires the Judicial Branch to pay the cost of serving process.

The proper officer, immediately after serving process on the respondent, must send or cause to be sent, by fax or other means, a copy of the application, or the information contained in it, stating the date and time the respondent was served, to the law enforcement agency or agencies for the town in which (1) the applicant resides, (2) the applicant is employed, and (3) the respondent resides.

Order After Hearing. Under the bill, if the court finds reasonable grounds to believe that the respondent (1) has committed acts constituting grounds for issuance of an order and (2) will continue to commit such act or acts designed to intimidate or retaliate against the applicant, it may make such orders as it deems appropriate for the protection of the applicant.

As is the case with ex parte orders, the bill allows the court to consider relevant court records if the records are available to the public from a Superior Court clerk or on the Judicial Branch's Internet web site.

Under the bill a civil protection order may include an order

prohibiting the respondent from:

1. imposing any restraint upon the person or liberty of the applicant;
2. threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the applicant; and
3. entering the dwelling of the applicant.

Duration and Termination. Under the bill, a civil protection order, whether issued ex parte or after a hearing, must not exceed one year, unless extended by the court. The bill allows the court to extend the order if:

1. the applicant filed a proper motion;
2. a copy of the motion has been served by a proper officer on the respondent;
3. no other order of protection based on the same facts and circumstances is in place; and
4. the need for protection still exists.

Notice of Order. When a court grants an order after notice and hearing, the clerk must provide two copies of the order to the applicant and a copy to the respondent. The bill also requires every such order to be accompanied by a notification that complies with the federal full faith and credit provisions.

Distribution of Orders. The clerk of the court must send, by fax or other means, a copy of any ex parte order and of any order after notice and hearing, or the information contained in it:

1. to the law enforcement agency or agencies for the town in which (a) the applicant resides, (b) the applicant works, and (c) the respondent resides, within 48 hours after the issuance of the order; and
2. at the request of the applicant, to the (a) school or institution of

higher education, (b) president of any institution of higher education at which the applicant is enrolled, and (c) special police force established, if any, at the institution of higher education at which the applicant is enrolled, if he or she is enrolled in a public or private elementary or secondary school, including a technical high school, or an institution of higher education.

The bill specifies that an action for a civil protection order does not preclude the applicant from subsequently seeking any other civil or criminal relief based on the same facts and circumstances.

§ 22—*Criminal Violation of a Civil Protection Order*

The bill makes it a crime to violate a civil protection order. A person is guilty of criminal violation of a civil protection order when he or she (1) has a civil protection order issued against him or her, (2) knows of its terms, and (3) violates the order.

Under the bill, criminal violation of a civil protection order is a class D felony.

§ 23 — *Standing Criminal Protective Orders*

The bill expands the circumstances under which the court may issue a standing criminal protective order.

Under current law, the court may issue a standing criminal protective order if (1) a person has been convicted of certain offenses against a family or household member, or attempted or conspired to do so and (2) the court believes that the history, character, nature, and circumstances of the criminal conduct of the offender indicate that a standing criminal protective order will best serve the interests of the victim and the public. The bill expands this to include such violations against persons other than family or household members.

Under existing law, the offenses are:

1. use of physical force in defense of property;

2. 1st and 2nd degree assault;
3. 1st and 2nd degree assault of an elderly, blind, disabled, or pregnant person, or person with intellectual disability,
4. 2nd degree assault with a firearm;
5. 2nd degree assault of an elderly, blind, disabled, or pregnant person, or person with intellectual disability with a firearm,
6. 1st, 2nd, 3rd, and 4th degree sexual assault;
7. 3rd degree sexual assault with a firearm;
8. 1st degree aggravated sexual assault;
9. sexual assault in a spousal or cohabiting relationship;
10. aggravated sexual assault of a minor;
11. 1st, 2nd, and 3rd degree stalking;
12. 1st and 2nd degree harassment;
13. criminal violation of a protective order;
14. criminal violation of a standing criminal protective order;
15. criminal violation of a restraining order; or
16. murder.

The law, unchanged by the bill, requires a standing criminal protective order to remain in effect for the time specified by the court until modified or revoked by the court for good cause.

§ 24 — 1st Degree Criminal Trespass

The bill also makes it 1st degree criminal trespass for a person, without permission or privilege to do so, to enter or remain in a building or any other premises in violation of a civil protective order.

By law, 1st degree criminal trespass is a class A misdemeanor punishable by up to one year in prison, a fine up to \$2,000, or both.

§ 25 — Protective Orders Registry

The bill expands the chief court administrator's automated protective orders registry by requiring that it also include civil protection orders. Under current law, the registry contains (1) protective or restraining orders issued by Connecticut courts and (2) foreign protective orders registered in this state.

By law, the registry must clearly indicate the order's start and end dates, if specified, and duration.

§ 26 — State Marshals – Civil Process

The bill expands the duties of state marshals by authorizing them to serve civil protective orders. The bill specifies that such orders constitute civil process.

Under the bill, the Judicial Branch must pay the cost of serving a civil protective order in the same way it pays the cost of serving a civil restraining order, including the fees and expenses associated with the serving of such process.

§ 27 — SEXUAL ASSAULT IN SPOUSAL OR COHABITING RELATIONSHIPS

The bill enhances the penalty of sexual assault in a spousal or cohabiting relationship.

Under current law, a spouse or cohabitor who compels the other spouse or cohabitor to engage in sexual intercourse by the use of force or threat of the use of force that causes the other spouse or cohabitor to fear physical injury, is guilty of a class B felony, punishable by up to 20 years in prison, a fine up to \$15,000, or both. The bill requires the court to impose a mandatory minimum sentence of two years.

§ 28 — PERSISTENT OFFENDERS OF CERTAIN CRIMES

By law, to be considered a persistent offender a person must (1) stand convicted of certain crimes and (2) have a prior conviction of

certain crimes. The bill adds criminal violation of a standing criminal protective order to the list of crimes that a person can be convicted of to qualify as one of these persistent offenders. Under existing law, someone must stand convicted of one of the following crimes:

1. 3rd degree assault;
2. 2nd degree stalking, threatening, or harassment;
3. 1st or 2nd degree criminal trespass; or
4. criminal violation of a protective or restraining order.

To be sentenced as a persistent offender, the person must have a prior conviction of certain crimes. The bill also adds a prior conviction of criminal violation of a standing criminal protective order to this list. Under existing law, a person must have a prior conviction of:

1. a capital felony committed before April 25, 2012 or class A felony;
2. a class B felony, except promoting 1st degree prostitution or 1st degree larceny;
3. a class C felony, except promoting 2nd degree prostitution or bribing jurors;
4. 2nd or 3rd degree assault, 3rd degree burglary or robbery, 3rd degree sexual assault, 2nd degree stalking or harassment; 2nd degree threatening, 1st degree unlawful restraint, 1st or 2nd degree criminal trespass, or criminal use of a firearm or electronic defense weapon;
5. criminal violation of a protective or restraining order; or
6. a similar crime in another state.

By law, the enhanced penalty is the sentence for the next more serious degree of the crime.

By subjecting a standing criminal protective order violator to the enhanced penalty if he or she has one of the required prior convictions, the bill increases the penalty for such a violator from a class D felony, which is the penalty for criminal violation of such an order, to a class C felony.

§ 30 — JUDICIAL DEPARTMENT TRAINING

The bill expands the Judicial Department's training program for judges, staff, and guardians ad litem. It requires the department, in establishing ongoing training, to work in consultation with an organization that advocates on behalf of victims of domestic violence. Under the bill, the training program for judges must include training on the unique social and emotional characteristics of family violence crimes.

§§ 29 & 31 — DOMESTIC VIOLENCE AGENCIES AND ADVOCATES

The bill makes it a crime to maliciously publish, disseminate, or otherwise disclose the confidential location of an emergency shelter operated by a "domestic violence agency," without written authorization from the agency that operates the shelter. Under the bill, publishing, disseminating, or otherwise disclosing the location of an emergency shelter is a class A misdemeanor.

Under the bill, a "domestic violence agency" is any office, shelter, host home, or agency offering assistance to victims of domestic violence through crisis intervention, emergency shelter referral, and medical and legal advocacy, and which meets the Department of Social Services' criteria of service provision for such agencies.

Family Violence Victim Advocates

The bill requires the chief court administrator to allow one or more "family violence victim advocates" to provide services to victims of domestic violence in the Superior Court's family division in each judicial district in the state, up to a statewide total of 16 such advocates.

Under the bill, "family violence victim advocate" means a person who:

1. is employed by and under the control of a direct service supervisor of a domestic violence agency;
2. has undergone at least 20 hours of training which must include, the dynamics of domestic violence, crisis intervention, communication skills, working with diverse populations, an overview of the state criminal justice and civil family court systems and information about state and community resources for victims of domestic violence;
3. is certified as a counselor by the domestic violence agency that provided the training; and
4. whose primary purpose is the rendering of advice, counsel and assistance to, and the advocacy of the cause of, victims of domestic violence.

§ 32 — BOND PREMIUM FINANCING AGREEMENTS

The bill allows a professional bondsman to enter into a premium financing arrangement when posting a bond for a criminal defendant. By law, professional bondsmen are regulated by the emergency services and public protection (DESPP) commissioner and put up personal assets as bond security.

Under a premium financing arrangement, the bondsman extends credit to the defendant (the principal) or someone paying for the bond for the defendant (an indemnitor). The bill requires (1) a minimum down payment of 35% of the approved premium rate set by DESPP in consultation with the insurance department and (2) the principal or indemnitor to execute a promissory note for the remaining premium due. The promissory note must require payment in full within 15 months of its execution.

If the balance owed is not paid in full by its due date or a payment is more than 60 days past due, the bill requires the bondsman to (1) file a

civil court action seeking appropriate relief within 75 days of when the balance was due and (2) make a diligent effort to obtain judgment, unless good cause is shown for failing to do so (e.g., the principal or indemnitor files for bankruptcy, or service of process failed despite good faith efforts).

Existing law allows a surety bail bondsman to enter into premium financing arrangements under similar conditions. By law, a surety bail bond agent, through a contract with an insurer, sells bail bonds in criminal cases and is regulated by the insurance commissioner.

BACKGROUND

Family or Household Members

By law “family or household members” are any of the following people, regardless of their ages:

1. spouses or former spouses;
2. parents or their children;
3. people related by blood or marriage;
4. people other than those related by blood or marriage presently living together or who have lived together;
5. people who have a child in common, regardless of whether they are or have been married or have lived together; and
6. people in, or who have recently been in, a dating relationship (CGS § 46b-38a).

School Employees Requiring Training

By law, SDE must annually train school employees in preventing, identifying, and responding to bullying. These employees include the following individuals employed in public elementary, middle, and high schools who do not hold initial, provisional, or professional educator certificates: (1) teachers, (2) substitute teachers, (3) school administrators, (4) school superintendents, (5) guidance counselors, (6)

psychologists, (7) social workers, (8) nurses, (9) physicians, (10) school paraprofessionals, and (11) coaches.

SDE also must annually train any other individual who has regular contact with students or provides services to students or on their behalf (CGS § 10-222d(a)(7)).

Safe School Climate Leadership Roles

By law, the following safe school climate leadership positions must be filled for each school year beginning July 1, 2013:

1. a district safe school climate coordinator for each school district, chosen by the superintendent of each board of education from among existing school district staff;
2. a safe school climate specialist for each school, who is either the principal or the principal's designee; and
3. a safe school climate committee, chosen by the principal of each school, that includes at least one student's parent or guardian (CGS § 10-222k).

School Security and Safety Plan

The law requires each local and regional board of education to develop a school security and safety plan for each school within its district (CGS § 10-222m). The plan must align with DESPP standards, which provide an all-hazards approach to handling emergencies at public schools (CGS § 10-222n).

Related Bills

sSB 462, favorably reported by the Judiciary Committee, has similar provisions on civil restraining orders and protective orders.

sSB 152, § 6, favorably reported by the Judiciary Committee, expands the crime of criminal violation of a protective order to include when a person violates a protective order issued by a court when sentencing a person to a period of probation.

sHB 5564, (File 451) favorably reported by the Education

Committee, requires SDE to approve or reject school district's safe school climate plans and adds specific requirements to safe school climate surveys.

sSB 106, (File 315) favorably reported by the Human Services Committee, also changes local board of education responsibilities regarding safe school climate plans.

sHB 5341,(File 548) favorably reported by the Judiciary Committee, contains the same provisions on (1) persistent offenders involving criminal violation of a standing criminal protective order and (2) ensuring that the term standing criminal protective order includes standing criminal restraining orders issued before their name was changed.

sHB 5586, favorably reported by the Judiciary Committee, contains the same provision on 1st degree harassment .

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0 (04/02/2014)